

REMARKS/ARGUMENTS

Claims 15-23, 26-27, 30-34, 42-52, 55, 57, 60-64 and 81-89 remain in this application. Claims 1-14, 24-25, 28-29, 35-41, 53-54, 58-59 and 66 have been canceled. Claims 65 and 67-80 have been withdrawn. Claims 81-89 are new.

The Examiner has acknowledged that claims 30, 31, 47, 60 and 61 are directed to possible allowable subject matter. Claims 65 and 67-80 have been withdrawn as the result of an earlier restriction requirement.

In view of the Examiner's earlier restriction requirement, applicant retains the right to present claims 65 and 67-80 in a divisional application.

Claim Objections

The Examiner objected to claims 57-64 and 66 because claim 57 was initially misnumbered, as the claims jump from claim number 55 to claim number 57 and requested that those claims following claim 55 be renumbered. In a telephone conference between Examiner Gonzalez and Applicant's attorney on September 26, 2005, it was agreed that for purposes of the present Office Action, because of the disposition of the effected claims, renumbering would not be required.

The Rejections Under 35 USC § 102

The Examiner rejected claims 1-5, 12, 14, 35-38, 41 and 66 as being anticipated by United States Patent No. 4,505,761 to Triplett.

Claims 1-5, 12, 14, 35-38, 41 and 66 have been canceled, and hence no further discussion is necessary regarding these rejections.

The Rejections Under 35 USC § 103(a)

Claims 6, 15-20, 24, 25, 27-29, 34, 39, 42-44, 53, 54, 57-59, and 64

The Examiner rejected claims 6, 15-20, 24, 25, 27-29, 34, 39, 42-44, 53, 54, 57-59, and 64 as being obvious over Triplett in view of United States Patent No. 6,662,642 to Breed et al.

Claims 6, 24, 25, 28, 29, 39, 53, 54, and 58-59 have been cancelled.

Of the remaining claims, claims 15 and 42 are independent claims. Claims 16-20, 27 and 34 all ultimately depend on claim 15. Claims 43, 44, 57 and 64 all ultimately depend on claim 42.

Claims 15 and 42 have been amended to specifically include the feature of an adaptive approach to energy capture by the capture electronics to maximize the captured energy. This feature is not disclosed or suggested by Triplett or Breed et al. either alone or in combination.

Claims 16-20, 27, and 34, which ultimately depend on claim 15, are to be construed as incorporating by reference all of the limitations of that claim. Hence, since claim 15, as amended, distinguishes patentably from the prior art, claims 16-20, 27 and 34 must so similarly distinguish. *In re Fine*, 837 F.2d 1071, 5USPQ2d, 1596, 1600 (Fed. Cir. 1988) ["Dependent claims are non-obvious if the independent claims from which they depend are non-obvious"].

Claims 43, 44, 57, and 64, which ultimately depend on claim 42, are to be construed as incorporating by reference all of the limitations of that claim. Hence, since claim 42, as amended, distinguished patentably from the prior art, claims 43, 44, 57 and 64 must so similarly distinguish. *In re Fine, supra*.

Applicant respectfully suggests that claims 15-20, 27, 34, 42-44, 57 and 64, as amended, are not obvious over Triplett in view of Breed et al. and that, as such, claims 15-20, 27, 34, 42-44, 57 and 64 are allowable under 35 USC § 103(a).

Claims 7-9, 21-23, 45, 46, and 48-52

The Examiner rejected claims 7-9, 21-23, 45, 46, and 48-52 as being obvious over Triplett and Breed et al as applied to claims 6, 17, 20, and 44 and further in view of United States Patent No. 6,462,650 to Balzer et al.

Claims 7-9 have been canceled.

Claims 21-23 ultimately depend on independent claim 15. Claims 45, 46, and 48-52 ultimately depend on claim 42.

As previously discussed, claims 15 and 42 have been amended to specifically include the feature of an adaptive approach to energy capture by the capture electronics to maximize the captured energy. This feature is not disclosed or suggested by Triplett, Breed et al., or Balzer et al. either alone or in combination.

Claims 21-23, which ultimately depend on claim 15, are to be construed as incorporating by reference all of the limitations of that claim. Hence, since claim 15, as amended, distinguished patentably from the prior art, claims 21-23 must so similarly distinguish. *In re Fine, supra*.

Claims 45, 46 and 48-52, which ultimately depend on claim 42, are to be construed as incorporating by reference all of the limitations of that claim. Hence, since claim 42, as amended, distinguished patentably from the prior art, claims 45, 46, and 48-52 must so similarly distinguish. *In re Fine, supra*.

With regard to claim 46, Applicant wishes to point that neither Triplett, Breed et al. nor Balzer et al. discloses or suggests the sandwiching of the mounted device between the tire surface and the tire patch. Balzer et al. places the tire patch between the device and the tire surface. Applicant respectfully suggests that claim 46 is not taught by the prior art and is patentable over it.

Applicant respectfully suggests that claims 21-23, 45, 46 and 48-52, as amended, are not obvious over Triplett in view of Breed et al. and further in view of Balzer et al. and that, as such, claims 21-23, 45, 46 and 48-52 are allowable under 35 USC § 103(a).

Claims 13, 26, 40 and 55

The Examiner rejected claims 13, 26, 40 and 55 over Triplett and Breed et al. as applied to claims 1, 25, 35 and 54 and further in view of United States Patent No. 4,405,872 to Thomas.

Claims 13 and 40 have been canceled.

Claim 26 depends on claim 15 and claim 55 depends on claim 42.

As previously discussed, claims 15 and 42 have been amended to specifically include the feature of an adaptive approach to energy capture by the capture electronics to maximize the captured energy. This feature is not disclosed or suggested by Triplett, Breed et al., or Thomas, either alone or in combination.

Claim 26, which ultimately depends on claim 15, is to be construed as incorporating by reference all of the limitations of that claim. Hence, since claim 15, as amended, distinguished patentably from the prior art, claim 26 must so similarly distinguish. *In re Fine, supra*.

Claim 55, which ultimately depends on claim 42, is to be construed as incorporating by reference all of the limitations of that claim. Hence, since claim 42, as amended, distinguished patentably from the prior art, claim 55 must so similarly distinguish. *In re Fine, supra*.

Applicant respectfully suggests that claims 26 and 55, as amended, are not obvious over Triplett and Breed et al. in view of Thomas and that, as such, claims 26 and 55 are allowable under 35 USC § 103(a).

Claims 10, 32, and 62

The Examiner rejected claims 10, 32, and 62 as being obvious over Triplett and Breed et al as applied to claims 1, 15 and 42 and further in view of United States Patent No. 3,760,351 to Thomas.

Claim 10 has been canceled.

Claim 32 depends on claim 15 and claim 62 depends on claim 42.

As previously discussed, claims 15 and 42 have been amended to specifically include the feature of an adaptive approach to energy capture by the capture electronics to maximize the captured energy. This feature is not disclosed or suggested by Triplett, Breed et al., or Thomas, either alone or in combination.

Claim 32, which ultimately depends on claim 15, is to be construed as incorporating by reference all of the limitations of that claim. Hence, since claim 15, as amended, distinguished patentably from the prior art, claim 32 must so similarly distinguish. *In re Fine, supra*.

Claim 62, which ultimately depends on claim 42, is to be construed as incorporating by reference all of the limitations of that claim. Hence, since claim 42, as amended, distinguished patentably from the prior art, claim 62 must so similarly distinguish. *In re Fine, supra*.

Applicant respectfully suggests that claims 32 and 62, as amended, are not obvious over Triplett and Breed et al. in view of Thomas and that, as such, claims 32 and 62 are allowable under 35 USC § 103(a).

Claims 11, 33 and 63

The Examiner rejected claims 11, 33, and 63 as being obvious over Triplett and Breed et al as applied to claims 1, 15 and 42 and further in view of United States Patent No. 2,072,459 to Lippitt.

Claim 11 has been canceled.

Claim 33 depends on claim 15 and claim 63 depends on claim 42.

As previously discussed, claims 15 and 42 have been amended to specifically include the feature of an adaptive approach to energy capture by the capture electronics to maximize the captured energy. This feature is not disclosed or suggested by Triplett, Breed et al., or Thomas, either alone or in combination.

Claim 33, which ultimately depends on claim 15, is to be construed as incorporating by reference all of the limitations of that claim. Hence, since claim 15, as amended, distinguished patentably from the prior art, claim 33 must so similarly distinguish. *In re Fine, supra*.

Claim 63, which ultimately depends on claim 42, is to be construed as incorporating by reference all of the limitations of that claim. Hence, since claim 42, as amended, distinguished patentably from the prior art, claim 63 must so similarly distinguish. *In re Fine, supra*.

Applicant respectfully suggests that claims 33 and 63, as amended, are not obvious over Triplett and Breed et al. in view of Lippitt and that, as such, claims 33 and 63 are allowable under 35 USC § 103(a).

Allowable Subject Matter

The Examiner objected to claims 30, 31, 47, 60 and 61 as being dependent on a rejected base claim, but indicated they would be allowable if rewritten in proper form. Claims 30 and 31 have been amended to depend on allowable claim 15. Claims 60 and 61 have been amended to depend on allowable claim 42. Claim 47 depends on allowable

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claim 46, which depends on allowable claim 45, which depends on allowable claim 44, which depends on allowable claim 42.

Claims 81-89 are new and are not disclosed or suggested by the prior art of record.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted

THE LAW OFFICE OF
RICHARD S. ERBE

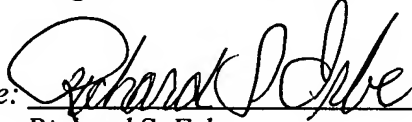
Dated: September 30, 2005

By: 

Richard S. Erbe
Reg. No. 34,814
Tel.: (805) 522-7636

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450, on September 30, 2005

Signature: 

Name: Richard S. Erbe

Date: September 30, 2005